

Town of Harpswell

P.O. Box 39

Harpswell, ME 04079

November 5, 2010

Ms. Angela Faherty, Commissioner
Maine Department of Education
23 State House Station
Augusta, ME 04330-0023

Dear Commissioner Faherty:

Pursuant to your authority under 20-A MRSA Section 1512 to approve the estimated cost of keeping a school open, the Harpswell Board of Selectmen respectfully requests that you not approve the current amount of \$195,962.43 to keep the West Harpswell School open in the 2011-2012 school year. This estimate is based on data from the 2009-2010 base year that SAD # 75 acknowledges is overstated.

The calculation is part of SAD # 75's amended Closure Report submitted to the Town of Harpswell and the Commissioner's Office on Thursday, October 28. A team appointed by the Selectmen initially reported to the Board that it could not resolve an aggregate increase of over \$22,000 in the teacher salaries regular instruction line from base year 2008-2009 (\$177,609.53) to base year 2009-2010 (\$199,762.80) for an unchanged number of teachers (4.5). The Town specifically questioned whether any teachers had been compensated for more than a 12-month period of time in the 2009-2010 base year. The District later confirmed that there was an overstatement of this line in 2009-2010.

In compliance with Department rules, the Town submits this response within the 10-day comment period. Our comments are limited to the \$195,962.43 estimated figure for base year 2009-2010. If, however, you are accepting comments on errors in last year's estimated figure of \$219,030.60, which was approved by the Commissioner, we would like to be advised. The full report from the Town's review team is attached and incorporated as part of the Town of Harpswell's formal response to the Commissioner. In addition, we have included comments from members of the public received by the Town during the 10-day comment period. The Board takes no position on the enclosed public comments.

Letter to Commissioner Faherty
November 5, 2010
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We recommend that you not approve the proposed estimate you are currently being asked to rule upon and that you request a revision from SAD # 75 so that Harpswell taxpayers will not be assessed in error should they vote to keep the West Harpswell School open in the 2011-2012 school year.

Sincerely,
Harpswell Board of Selectmen


James S. Henderson, Chair


Elinor Multer


Mark E. Wallace

Attachment: Report from the Town of Harpswell's School Closure Cost Review Team

Enclosures: Public Comments

ATTACHMENT

Report from the School Closure Cost Review Team

The School Closure Cost Review Team (SCCRT) was tasked by the Board of Selectmen to review the West Harpswell School (WHS) closure calculation provided to the Town of Harpswell by SAD 75. The resulting amount is what Harpswell taxpayers would be responsible for paying should its voters decide to keep the West Harpswell School open in the 2011-2012 school year. Pursuant to Department of Education (DOE) rules, the municipality has 10 days from receipt of the amended closure report on Thursday, October 28 to make comment to the Commissioner of Education regarding compliance of the cost data with statutory and regulatory language.

Members of the SCCRT have spent considerable time reviewing SAD 75's documentation to support its initial estimate as well as its amended estimate of savings (or cost to Harpswell taxpayers of keeping the school open) of \$195,962.43. While the District amended the first estimate it provided to the Town and the Commissioner for an error in the fuel line, there is another error, acknowledged by the District, which did not result in an amendment.

The District has acknowledged that the WHS teacher salaries regular instruction line for the 2009-2010 base year is overstated. Not only does this overstatement affect the base year salary line for regular instruction teachers by \$5,007.69, but it may also have an effect on benefits in the base year that has not been quantified. In addition to this issue, the SCCRT provides comment to you on other areas that are more conceptual in nature.

Conceptual Matters:

1. Inconsistency from year to year. SAD 75 reported that it received new guidance from the DOE in preparing this year's cost data. The change in interpretation of the regulations creates inconsistencies from year-to-year, making comparisons and projections difficult.
2. Prepaid expenses. The SCCRT questions whether from an accounting standpoint certain items should be treated as prepaid expenses and therefore excluded from the base year cost savings calculation. For example, we are aware that, from the 2008-2009 year to the 2009-2010 year, the number of gallons of heating fuel at WHS increased 27% as a result of a fuel purchase in June of 2010, adding \$2,089 to the savings estimate.
3. One-time versus recurring costs. Base year operational and maintenance costs include both one-time and recurring items. The SCCRT questions whether one-time or non-recurring cost items could or should be treated differently than recurring ones, particularly in base years when the District did not decide to close the school.
4. Additional costs that may occur as a result of the closing. Other than transportation, where the cost of the additional mileage is being taken into consideration, the process does not appear to allow for higher estimated costs in such areas as phone service, trash removal and administrative supplies if the school were closed.

5. Adjustments that occur from the base year to the current year. The process does not allow for adjustments when staffing changes have occurred from the base year to the current year. For instance, when teacher positions have been reduced subsequent to the base year, the savings is still derived or calculated from the base year even though the position is known to have been eliminated.

Members of the SCCRT have been challenged to review the District's figures in a relatively short period of time, and believe the 10-day comment period should be lengthened in order to provide adequate time for the municipal review process. Also, with respect to any changes that may call into question the estimated cost savings of the prior year, the SCCRT takes no position at this time.

Dated November 3, 2010

Amended November 5, 2010

Honorable Angela Faherty, Commissioner
Maine Department of Education
23 State House Station
Augusta, Maine 04333-0023

5 November 2010

Dear Commissioner Faherty,

A series of unresolved questions and newly discovered additional errors (more than \$5,000, possible much more) remain in the amended MSAD75 Petition for Closure of the WHES (West Harpswell Elementary School). The fact that this new error was only acknowledged by MSAD75 at 5:24 PM yesterday 4 November, immediately before the Harpswell Select Board Meeting to prepare their response to you. This new error makes preemptive action by you essential. We ask that you remand the amended petition to MSAD75 for a second amendment to correct for these newly discovered errors and to consider as well removal of other inappropriate charges discussed below. It is appropriate for you to do this, before beginning your formal process of evaluation.

A. Spreading costs of continuing all-district activities to the charge for school (WHES) proposed to be closed. The logic and wording of the statute require that marginal costs not fully-allocated costs be used. Marginal costs (the costs of those activities that would in fact physically change, if WHES closed) are the correct quantity to look at, but it appears that an average share of the various continuing district-wide totals has been used to incorrectly charge WHES for excessive amounts in categories like garbage hauling, telephone and some administrative services.

Re garbage hauling: it is not clear what the link is between pounds carried and number of pick up points in calculating these costs. The pounds carried will be the same if there is closure, so anything connected to the weight of garbage hauled is not a legitimate part of closure "savings" calculation for WHES.

Telephone expenses: amounts claimed are implausible, as: a/ there is no charge for local calls between WHES and HIES; and b/ all other calls would be the same in a combined school. Only the base charge for a line to the WHES building is properly included.

Supplies: these amounts are implausible and should in general be zero. This observation includes office machine maintenance, etc.

B. Charges that are not related to the base year but to the year/years that follow, despite this are charged to WHES for the base year (FY 2010). A series of capital repairs and/or maintenance efforts that are wrong (= improper charges). They are wrong in two separate ways, one error sufficient to reduce their weight (in B.1) and the other grounds to exclude them completely (in B.2) from this savings/costs calculation.

B.1. The items in question are: pumping of the septic tank; boiler repair; and an extensive capital repair of the drinking water well. All of these are all multi-year phenomena, not properly attributed to the base year alone;

B.2. Under a strict reading of the regulations, where WHES must be assumed to have been closed during the base year (FY2010), each of the 3 activities mentioned in B.1 above would not be carried out at all. The regulations clearly call for not counting those actions and expenditures that would not occur at all if the school were in fact closed in the base year. If the WHES had indeed been closed during the base-year, no well repair would be done. If the overall base-year approach of the Department of Education is in fact to be taken seriously as a guide to actual SAD calculations, these expenditures must be removed from the charge;

B.3. A large and abnormal delivery of oil to WHES occurred in the last days of FY 2010, making the base-year oil bill very high despite the sharply lower oil price. This was a prepayment for FY2011 activities that should not be charged to the FY2010 base-year. This appears to be an overcharge of \$2-4,000. The Annex 1 on page 3 below makes this clear.

C. The jump in total teacher salaries from \$177,609.53 in last years petition using the FY2009 base year to \$199,762.80 in this years petition (FY2010) has not been satisfactorily explained, despite repeated inquiries from Town of Harpswell staff. Some teachers may have been prepaid for FY2011 activities, or in some other way paid for more than 12 months.

D. Grounds for a refund of more than \$38,000 from SAD75 for the incorrect principal salary charge under the FY2009 petition, as shown by full acceptance in FY2010 of our claim that it should be zero. This change appears to have responded to our analysis of the error and does not reflect any change in statute or logic in the interval.

On February 23, 2010 then-Commissioner of Education Susan Gendron wrote to the lawyer representing Friends for Harpswell Education, (John B. Shumadine, Esq., Murray, Plumb, and Murray), rejecting his February 9, 2010 request that she stay the approval of last years estimate of the "cost of keeping the West Harpswell Elementary School (WHES) open", pending the outcome of litigation in Superior Court.

One reason she stated for not granting the request was:

***Irreparable injury to petitioners:** Any injury to the petitioners caused by an incorrect determination of the cost of keeping WHES open can be rectified. If a court ultimately determines that the cost was incorrectly calculated, and the citizens of Harpswell have voted to keep the school open at the incorrect cost, then an adjustment could be made in a subsequent year to refund the overage to the Town of Harpswell.*

(23 February 2010, paragraph 7, p .2)

The Commissioner assumed that any judgment establishing the incorrect calculation of the charge would come from the Superior Court. It came instead directly from the Department of Education, which this year accepted without qualification our argument that all of the principal salary must be excluded under the actual physical facts of WHES and HIES. We believe that DoE staff already knew this was not correctly calculated last year, but time pressure created by the initial rejection of the MSAD75 petition by the Commissioner of Education (requiring some consideration of transportation "negative savings") appears to have made dealing with the issue inconvenient last year.

This year there is no doubt about the DoE view. The entirely opposite interpretation by your Department this year comes with no change in law or logic. Because MSAD75 was allowed to collect a clearly indefensible overcharge last year, it would be morally and politically reasonable for you to adopt an approach that shades the estimated "savings" that you allow MSAD75 to claim this year toward the bottom of the plausible range, rather than allowing the absolute maximums embodied in the current petition to continue in force.

Sincerely,



Robert J. McIntyre and Friends for Harpswell Education
444 Basin Point Road
Harpswell, Maine 04079

("Friends for Harpswell Education" is non-incorporated citizens group that is committed to maintaining two quality elementary schools in Harpswell)

Annex 1:

MSAD75 charges for oil usage at WHES in the FY2009,
FY2010 & corrected FY2010 closure petitions:

	Petition FY2009	Original petition FY2010	Amended petition FY2010	Proposed second amendment FY2010
WHES oil charge:	\$8,856.73	\$15,228.67	\$11,025.77	c.\$7,500.00
Average oil price:	(high price, \$3-\$5/gallon)	(low price) -----	(low price) \$2-\$3/gallon-----	(low price)

Sources: MSAD75 Closure petitions, 25 October 2010, amended 28 November 2010;
9 October 2009

James S. Henderson
2 Jays Ledge Lane
Harpwell, Maine 04079

November 5, 2010

Angela Faherty
Commissioner
Maine Department of Education
23 State House Station
Augusta, Maine 04333-0023

Dear Ms. Faherty,

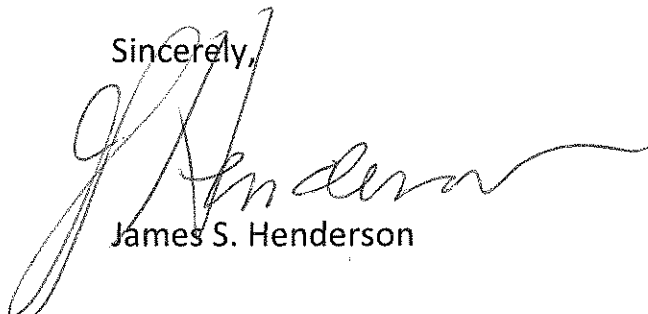
Please consider the attached comments on the "Lack of Need" report submitted by SAD 75 regarding the proposed closure of the West Harpswell School.

The report fails to document any specific unmet needs at this important community school and fails to consider any negative impacts a closure would have on its students, their parents, and the surrounding community.

I strongly suggest you ask SAD 75 to resubmit their "Lack of Need" report after having addressed these errors and omissions.

As a twice-elected member of the Harpswell Select Board, and its current Chair, though speaking only as a member and not for the Board, I ask that you please carefully consider your decision in this case, so critically important to this community.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Henderson", with a long, sweeping horizontal stroke extending to the right.

James S. Henderson

Report of Lack of Need for West Harpswell School

Errors and Omissions that May Affect the Statutory Requirements for the Report

James S. Henderson - November 4, 2010

Paragraph 1. Omission.

When describing the closure vote, the Report fails to note that half (2 of 4) of the Harpswell members of the SAD 75 Board of Directors opposed the closing of the school.

Paragraph 5. Omission.

When referencing the "2005 Harpswell Comprehensive Plan," the Report fails to note that the plan, while recognizing the challenges of a changing population, states "These challenges include maintaining neighborhood schools in a period of declining enrollment, . . ." p. 41.

And later (p.46)

Goal: Assure that the regional school system recognizes the changes in Harpswell's school-age population, and continues to provide a high level of education for the Town's children.

Policies

- *Maintain neighborhood stability with neighborhood schools.*
- *Seek equity in regional school funding formulas.*

Action Recommendations

- *Work with the Town's legislative representatives to alter regional funding formulas to treat towns like Harpswell more fairly.*
- *To ensure the continued viability of Harpswell schools, develop affordable housing to attract families with children to live in Harpswell.*
- *Selectmen and S.A.D. 75 will develop incentives such as seminars, workshops, and conferences to attract citizens to assume a more active role in educational policy.*
- *Study ways to maintain the viability of local schools.*

Paragraph 5. Omission.

When referencing the number of building permits the Report states "In June of 2010, half way through the year, the number of building permits was seven." The Report fails to note that, according to the Harpswell Codes Office, by November 3, 2010 eight new housing construction building permits were issued in the West Harpswell School catchment area alone. Another nine were issued in the Harpswell Islands catchment area, for a total of seventeen new houses so far in 2010, in the midst of a slow housing year. When the economy rebounds, one might reasonably expect more robust housing development.

Paragraph 6. Error and Omission.

When referencing the Town's affordable housing efforts, the Report incorrectly states "The Town has begun construction of 5 to 10 affordable houses . . ." In fact Hamilton Place is being developed by the Brunswick Housing Authority and four "work force" housing units have been completed and are occupied. A fifth will be completed in the Spring of 2011. A total of fifteen housing units are proposed for development at Hamilton Place, which is only a few miles from West Harpswell School. It is clear that a completed development will contribute to enrollment at the school.

Paragraph 6. Further Omissions.

The Report repeatedly refers to general process-oriented changes that it states will improve services to West Harpswell Students. However, it never cites any cases or patterns of specific needs: in academic performance, unmet special needs, inadequate socialization, limited critical thinking, needs for "group counseling," etc. It does not cite any of these problems as having been overrepresented by recent West Harpswell Students who have moved on to middle and high school. Yet evidence could have been gleaned from school records, if there were any evidence.

The Report never mentions any potential negative consequences of closing the school, yet surely there must be some. It does not discuss the impact of longer bus trips, loss of contact with the West Harpswell community, reduced interaction with parents, other adults, and older children in the neighborhood, or other potential difficulties.

General Comments

To paraphrase Mark Twain, "*The Report of Lack of Need for West Harpswell School* has been greatly exaggerated." These errors and omissions challenge the basis for the closure, other than the statement in its first paragraph that "the school . . . is unprofitable to maintain." Many corporations, in disregarding community needs, have used the same argument for why they need to avoid environmental regulations, refuse to institute safety procedures, etc. These are what economists call "externalities," or costs to be borne by the community and not by the responsible organization.

There definitely is a "need" for this community school in this geographically dispersed town.

Kristi Eiane

From: P Conley [woofgang@prodigy.net]
Sent: Wednesday, November 03, 2010 10:04 AM
To: Kristi Eiane
Subject: correction to closure report

Kristi,

I would like to make what seems to be a small correction to the closure report re: Hamilton Place

It states that 5-10 houses will be built. That is incorrect. There will be 15 houses absolutely. You can confirm this with John Hodge at Brunswick Housing Authority.

The home prices are not \$165,000 to \$200,000. Correct figure is \$150,000 to \$199,000.

Just want to be precise. The perception that there might only be 5 houses built when there will definitely be 15 could make a significant difference to the future numbers at WHS.

Paula Conley

11/5/2010